JUDGMENTS — SATISFACTION — EFFECT OF ASSIGNMENT TO MAKER OF NOTE OF JUDGMENT AGAINST INDORSER. — The holder of a promissory note sued the maker and the indorser. The maker filed an answer, but the indorser allowed judgment to be entered against him by default. The holder assigned the judgment against the indorser to the maker. The judgment debtor moved to have the judgment discharged of record on the ground that the assignment to the maker amounted to a satisfaction of the judgment. *Held*, that the motion should be granted. *Chicago Varnish Co.* v. *Hargood Realty & Construction Co.*, 138 N. Y. Supp. 93 (Sup. Ct., App. Term).

When one not a party to a judgment pays the judgment creditor there will be no satisfaction of the judgment unless so intended. *Marshall* v. *Moore*, 36 Ill. 321; *Bender* v. *Matney*, 122 Mo. 244, 26 S. W. 950. By taking an assignment of the judgment the intention not to extinguish it is shown. *Harbeck* v. *Vanderbilt*, 20 N. Y. 395; *Noble* v. *Merrill*, 48 Me. 140. But the court argues that, since the indorser is discharged when the maker takes up a note, the same effect should follow the purchase by the maker of the judgment founded on the note. It is true that a cause of action is not so far merged in a judgment as to prejudice equitable rights connected with the original cause of action. For example, a judgment entered after the filing of a petition in bankruptcy and before discharge will be considered discharged in bankruptcy if the debt from which the judgment arose will be so discharged. *Clark* v. *Rowling*, 3 N. Y. 216. But a judgment against an indorser is distinct from the note, and no longer includes any obligation of the maker. The maker's liability is not fixed thereby, as he may have a good defense against the indorser. *Fenn* v. *Dugdale*, 31 Mo. 580. Therefore the principal case seems incorrect. *Cf. Bardon* v. *Savage*, 1 Mo. 560. If the maker had a good defense he would lose by the court's decision what he had paid for the assignment.

LANDLORD AND TENANT — ASSIGNMENT AND SUBLETTING — RIGHTS OF SUBLESSEE AFTER SURRENDER BY LESSEE. — The plaintiff's lessee surrendered his term after making a sublease to the defendants. The defendants refused to vacate, and retained possession until the expiration of their term. The plaintiff sued for use and occupation of the premises since the surrender. *Held*, that he cannot recover. *Semble*, that no recovery can be had under the sublease. *Buttner* v. *Kasser*, 127 Pac. 811 (Cal., Dist. Ct. App.).

The principal case adopts the orthodox view. *Thre'r* v. *Barton*, Moore C. C. 94. *Cf. Webb* v. *Russell*, 3 T. R. 393. The sublessee's rights, it is said, cannot be prejudiced by the surrender. *Eten* v. *Luyster*, 60 N. Y. 252. Neither lessor nor sublessor can sue, because the reversion to which the rent is incident is extinguished by a merger. See *Krider* v. *Ramsay*, 79 N. C. 354, 358; *Bailey* v. *Richardson*, 66 Cal. 416, 422, 5 Pac. 910, 914. The result is obviously unjust. It cannot be remedied by implying a transfer of the rent to the surrenderee, for rent is properly transferable only under seal. See TIFFANY, LANDLORD AND TENANT, 1108. Nor can an assignment of the rights under the covenants of present-day leases be presumed, for such rights *primâ facie* end with the termination of the tenancy. See TIFFANY, LANDLORD AND TENANT, 361. It might be said that although the surrender frees the underlessee's legal estate from liability for rent, he holds in subordination to the original lessor's title, and so to prevent unjust enrichment will be liable for use and occupation. Another theory is that the merger of the lessee's estate in the reversion destroys all rights dependent on that estate, including the underlessee's term; and logically this view seems sound, though it is unjust to the underlessee. A third solution presumes an attornment from the underlessee to the surrenderee. See *Hessel* v. *Johnson*, 129 Pa. St. 173, 179, 18 Atl. 754, 755. In some jurisdictions statutes have abrogated the old doctrine. N. Y. REAL PROPERTY LAW (CONSOL. LAWS, 1909, c. 52), § 226; STAT. 4 GEO. II, c. 28,

§ 6; STAT. 8 & 9 VICT., c. 106, § 9. Legislatures are, unfortunately, slow to perceive the necessity of such statutes. See 18 GREEN BAG 426; 19 GREEN BAG 317.

LANDLORD AND TENANT — ASSIGNMENT AND SUBLETTING — SUBLEASE FOR FULL TERM WITH RIGHT OF REËNTRY RESERVED. — The plaintiff leased property to a company which sublet to the defendant for the rest of its term, reserving a certain rent and a right to enter if the rent were not paid. The plaintiff sued the defendant as assignee of the lease for the original rent. *Held*, that the plaintiff cannot recover. *Davis* v. *Vidal*, 151 S. W. 290 (Tex., Sup. Ct.).

A sublease conveying the whole remainder of the sublessor's term and leaving no interest in the land in himself is regarded, at least as between the original lessor and the sublessee, as an assignment of the term. *Hollywood* v. *First Parish in Brockton*, 192 Mass. 269, 78 N. E. 124. See *Bedford* v. *Terhune*, 30 N. Y. 453, 458. Of course where there is a reversion in the lessee the whole interest does not pass. But a right of entry is generally held not to have that effect. *Sexton* v. *Chicago Storage Co.*, 129 Ill. 318, 21 N. E. 920; *Craig* v. *Summers*, 47 Minn. 189, 49 N. W. 742. That a right of entry is an interest in the land in the nature of a reversion has been given as a reason in some cases for holding it to be devisable. *Austin* v. *Cambridgeport Parish*, 21 Pick. (Mass.) 215. See *Proprietors of Church in Brattle Square* v. *Grant*, 3 Gray (Mass.) 142, 148. But by the weight of authority it is a mere personal right, in the nature of a chose in action, to get back an interest which one has conveyed away. *Nicoll* v. *New York & Erie R. Co.*, 12 N. Y. 121; *St. Joseph & St. Louis R. Co.* v. *St. Louis, I. M. & S. Ry. Co.*, 135 Mo. 173, 36 S. W. 602. Since for the time being no interest or estate in the land is retained, it seems that the transaction is in substance an assignment. The Statute of *Quia Emptores* creates a similar situation in regard to estates in fee, and it is applied to cases where a right of entry is reserved. See *Doe d. Freeman* v. *Bateman*, 2 B. & Ald. 168, 170; LEAKE, PROPERTY IN LAND, 2 ed., 170–171, 174. Such a sublease as that in the principal case has been held to be an assignment on the ground that a right of entry cannot exist apart from a reversion, and is therefore void. *Cameron Tobin Baking Co.* v. *Tobin*, 104 Minn. 333, 116 N. W. 838. But this reasoning seems untenable and unnecessary. *Doe d. Freeman* v. *Bateman*, *supra*.

MASTER AND SERVANT — DUTY OF MASTER TO PROVIDE SAFE APPLIANCES — SUBSTITUTION FOR LIABILITY. — The plaintiff sued in New York for a negligent injury by his employer occurring on a German vessel in New York harbor. The defendant pleaded a contract of employment made in Germany under a compulsory Workmen's Compensation Act, which provided that the employee should give up his right of action for negligence and instead have recourse to an insurance fund made up by the contributions of employer and employee. *Held*, that this defense is not against the public policy of New York. *Schweitzer* v. *Hamburg-Amerikanische Packetfahrt Actien Gesellschaft*, 138 N. Y. Supp. 944.

The law of the port rather than the law of the flag must govern all rights arising from the tort in this case. *Geoghegan* v. *Atlas Steamship Co.*, 3 N. Y. Misc. 224, 22 N. Y. Supp. 749; *Sherlock* v. *Alling*, 93 U. S. 99. But a foreign contract valid by the *lex loci contractus* may be a defense, unless the recognition of it is open to some special objection by the law of the forum. See 25 HARV L. REV. 385. The enforcement of the contract in New York would not seem to be a denial of due process of law, although the German statute under which the contract was made would perhaps be unconstitutional if passed by the New York legislature. See COOLEY, CONSTITUTIONAL LIMITA-